

AMENDED IN ASSEMBLY APRIL 29, 2013  
AMENDED IN ASSEMBLY MARCH 14, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 885**

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**Introduced by Assembly Member Ammiano**

February 22, 2013

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An act to add Section 1127j to the Penal Code, relating to criminal procedure.

### LEGISLATIVE COUNSEL'S DIGEST

AB 885, as amended, Ammiano. Discovery: prosecutorial duty to disclose information.

Existing law requires the prosecuting attorney to disclose to the defendant or his or her attorney certain materials and information, including statements of all defendants and any exculpatory evidence, as specified.

This bill would require a court in any criminal trial or proceeding in which the court has determined that ~~there has been an intentional failure~~ *the prosecuting attorney has failed* to disclose certain materials and information, as specified, to instruct the jury that the failure to disclose has occurred and that the jury may consider the failure as circumstantial evidence to support the presence of reasonable doubt.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1127j is added to the Penal Code, to read:

1     1127j. (a) In any criminal trial or proceeding in which the  
2 court determines that ~~there has been an intentional failure~~ *the*  
3 *prosecuting attorney has failed* to disclose specified materials and  
4 information ~~pursuant to~~ *required under current law, including*  
5 Section 1054.1 ~~or~~ *and* Brady v. Maryland (1963) 373 U.S. 83, the  
6 court shall instruct the jury that the intentional failure to disclose  
7 the materials and information occurred and that the jury may  
8 consider the failure to disclose as circumstantial evidence to  
9 support the presence of reasonable doubt.  
10     (b) *Nothing in this section shall be construed to limit any other*  
11 *remedy available under law.*